

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>JOSEPH JAMES SVIRBELY,</b>	)	
<b>Petitioner</b>	)	
	)	
v.	)	<b>Civil Action No. 06-222 Erie</b>
	)	<b>District Judge McLaughlin</b>
	)	<b>Magistrate Judge Baxter</b>
	)	
<b>SUPERINTENDENT DAVID GOODE,</b>	)	
<b>et al.,</b>	)	
<b>Respondents.</b>	)	

**REPORT AND RECOMMENDATION**

AND NOW, this 17th day of May, 2007, after Petitioner presented a petition for a writ of habeas corpus which he seeks leave to prosecute in forma pauperis, and it appearing that he has an average monthly balance of \$ 52.60 in his account at the State Correctional Institution at Cresson, Pennsylvania, which sum far exceeds the \$5.00 filing fee required to commence this action, and it further appearing that requiring the Petitioner to pay the filing fee will not deprive him of any necessities of life at the prison,

It is recommended that leave to proceed in forma pauperis be denied.

Petitioner shall have ten (10) days from the date of service in which to file written objections to this Report and Recommendation. Failure to file timely objections may constitute a waiver of any appellate rights.

S/Susan Paradise Baxter  
SUSAN PARADISE BAXTER  
Chief U.S. Magistrate Judge

cc: Joseph James Svirbely. # EZ-3781  
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